

**MINUTES OF THE ZONING BOARD
PUBLIC HEARING & REGULAR MEETING,
MONDAY, JULY 13, 2015, AT 7:00 P.M., ON THE
4th FLOOR, CAFETERIA, GOVERNMENT CENTER
BLDG, 888 WASHINGTON BLVD., STAMFORD, CT**

Present for the Board: Thomas Mills (Chair), Barry Michelson (Secretary), William Morris and David Stein. Present for staff: Norman Cole, Land Use Bureau Chief and David Killeen, Associate Planner.

Mr. Mills called the meeting to order at 7:08 pm.

PUBLIC HEARING

1. **Application 215-11 – STAMFORD ZONING BOARD, Text change**, to Amend Article III, Section 7-U and Appendix A, Table II, to establish local regulatory framework for the palliative use of marijuana pursuant to Chapter 420f of the Connecticut General Statutes. To establish the appropriate location and operation of medical marijuana dispensaries and production facilities in the City of Stamford to minimize the impact on neighbors while recognizing the essential services these dispensaries and facilities provide.

Chairman Mills read the description of this item into the record.

Secretary Michelson read the referral letter from the Planning Board, dated June 30, 2015 recommending approval of the proposed text change with recommended conditions: no production facilities, no more than one dispensary in Stamford and the Zoning Board should obtain an opinion from the Director of Public Safety. The letter noted that this application requests was consistent with the 2015 Master Plan.

Mr. Stein provided a brief overview of the proposed regulation explaining that it was written in response to the State's program for the palliative use of marijuana pursuant to Chapter 420f of the CT General Statutes. The City has had a moratorium for over a year. When that moratorium was about to expire, the Board researched efforts of other CT communities that were regulating this use. The proposed regulation allows dispensaries, by Special Exception approval of the Zoning Board in certain commercial and industrial districts and manufacturing facilities by Special Exception in industrial districts. The proposed regulation references compliance with standards established in the Department of Consumer Protection regulations administering this program.

Mr. Mills asked if there was anyone from the public that wished to speak on the proposed Application.

Gloria Blick, 11 York Street, said she is 93 years old and suffers from glaucoma and found that marijuana was the only medication that provided her relief. She supported the regulation amendment to allow dispensaries to be located closer to her home.

Gerard Brennan, 101 Summer Street said he has had M.S. for over 15 years. He supports adoption of this regulation. He feels it is a good first step towards helping people with illness. He had used marijuana years ago when he lived in Colorado and found it helped him deal with the pain. Because of his condition, he cannot drive the far distance to existing dispensaries.

Ron Mikhail said he is interested in opening a facility in Connecticut. He had used marijuana for medical purposes in California years ago. He stated that there are strong state controls of this use. The number of users has increased. Users have to be a Connecticut resident and be diagnosed with certain illnesses.

Mr. Michelson asked how Mr. Mikhail had consumed the medical marijuana. Mr. Mikhail stated it was in 2005 and he had inhaled it at a smoke shop.

Edward Parr and Ingrid Gillespie, 54 W. North Street, Apt 101. Mr. Parr spoke for the couple. He said he had hoped there would be more information about this use and the proposed regulation. He has seen some studies showing that PTSD is one of the diseases covered under the State program and evidence for its use is weak. Parkinson's disease was another one referenced. He asked how advertisements and signage would be controlled. Will there be follow-up on how many users will be accessing dispensary facilities, by medical condition? Where is the data demonstrating the need? Will there be security? What are the parking requirements? Will the City receive tax revenues? How will the use be regulated? Who will monitor this use?

Nina Becker, 201 Tresser Blvd said she is concerned about what the impact will be especially on adolescents. Her fear is that by allowing for the use, the City sends a message that the perception of risk for use of marijuana goes down.

Attorney Bill Hennessey, 707 Summer Street. He is here tonight to introduce Nicholas Tambullo who operates a dispensary in Branford and his security officer, Douglas McDonald who used to be an Assistant Police Chief in New Haven.

Nicholas Tambullo, 469 E. Main Street, Branford. Mr. Tambullo explained his operation in Branford. He is one of the first licensed dispensary facilities in the State. He discussed how the State regulates these facilities as a Schedule 2 Prescription Drug. He noted that patients are carefully monitored. He feels Stamford would be an ideal location for this use, pointing out security is carefully controlled.

Chairman Mills asked what form medical marijuana comes in. Mr. Tambullo responded there are multiple forms...pill, smokable, alcohol-based, etc.

Mr. Morris asked if the State allowed only one dispensary per City. Mr. Tambullo said no, but there are so few within the State they are being spread out throughout the State.

Mr. Michelson asked why this is not being handled like other Schedule 2 Prescription Drugs. Mr. Tambullo stated there is still a federal restriction.

Douglas McDonald, 111-7 Cosey Beach Avenue, East Haven. Mr. McDonald is the security consultant for Bluepoint Wellness (Branford dispensary). He stated he used to work for the New Haven Police Department and helped develop the security system for the facility. Clients are

handled by appointment. The dispensary has developed a relationship with the Branford Police Department.

Mr. Mills asked about the timing of appointments and how big was the facility? Mr. McDonald said 10 minutes apart and 1,500 s.f.

Mr. Stein asked if Mr. McDonald had seen an increase in adolescent use of marijuana as a result of these facilities. Mr. McDonald replied no. He also agreed to send pictures.

Susan Wandziak spoke on this regulation. She noted that her son is a schizophrenic and that he had been assisted by a Monroe doctor in getting a prescription card. He abuses this and self-medicates. This destroys the mentally ill. She didn't know how to get around this doctor.

Carolyn Goldenberg, Stamford, asked why can't people go through a regular pharmacy? The answer was, federal regulations.

Geri Ann Bradley, Bristol, CT. She runs a dispensary in Bristol. She discussed the stringent procedures of the State and noted that the State regulations require that a doctor have a bonafide relationship with a patient. She encouraged the previous speaker to report the doctor to the Dept of Consumer Protection.

Mr. Stein asked if the state looks to pharmacists to control the amount of substance a patient uses. The answer was no, the doctor regulates this.

Mr. Morris said that he would like to obtain input from the Police Chief (Stamford). Mr. Michelson agreed.

Mr. Mills closed the public hearing, allowing the record to be open until September 10, 2015 to allow input from the Police Chief on the proposed text change.

2. **Application 215-20 – ESRT METRO TOWER, LLC, Text change**, to Amend Article III, Section 9-BB (TCDD Transportation Center Design District) subsection 7 to provide the Zoning Board with discretion to extend approvals in a manner that is consistent with Connecticut General Statutes section 8-3(m).

Chairman Mills read the description of this item into the record.

Secretary Michelson read the referral letter from the Planning Board, dated July 1, 2015 recommending approval of the proposed text change, noting that this application request was consistent with the 2015 Master Plan.

Attorney Hennessey made this presentation, explaining that the text change would enable the local deadlines for issuance of a building permit to match those allowed under state statutes.

Mr. Mills asked if there was anyone from the public that wished to speak on the proposed Application. There were none. Therefore, Mr. Mills closed the Public Hearing on this application.

REGULAR MEETING

PENDING APPLICATIONS:

1. Application 215-11 – STAMFORD ZONING BOARD, Text change

There was no discussion because the Zoning Board is keeping the record open to obtain comments from the City's Police Chief.

2. Application 215-20 – ESRT METRO TOWER, LLC, Text change

The Board discussed the proposed text change and asked what language was being changed from the existing text. Mr. Killeen explained that the current regulation allows an Applicant five years to obtain a building permit and the Board may approve up to five one-year extensions. The proposed text seeks to allow nine one-year extensions to reflect language adopted in the CT General Statutes. Staff recommended limiting this extension to projects approved before 2011 in the same way that the statute restricts extensions.

Mr. Stein stated he had no concern about this extension as long as there are no automatic extensions.

Mr. Mills agreed that extensions should not be automatic.

A motion was made by Mr. Morris and seconded by Mr. Stein to approve application 215-20 using the language proposed in the Staff report for this application and the motion was approved 4:0 (Mills, Michelson, Morris and Stein). The wording will now read as follows:

7. Procedure. All applications for designation and development of property within the TCD District shall conform to the review and application procedures of the DWD District (Sect. 9.AAAA -7 and 8) except that all references to water-dependent uses and the schedule set forth in Section 7-c.(2) shall not apply. An approved General Development Plan shall remain in effect for five (5) years with the opportunity for two (2) one-year extensions at the discretion of the Zoning Board; provided, however, in the case of a multi-phased development where at least one certificate of occupancy is obtained for a principal structure within the initial five (5) years, the Zoning Board, at its discretion, may issue up to five (5) one-year extensions of the initial five (5) year timeframe. For a General Development Plan approved prior to July 1, 2011, that has not expired prior to May 9, 2011, the Zoning Board, at its discretion, may issue up to nine (9) one year extensions of the initial five (5) year timeframe. Notwithstanding any other provision of these Regulations, any approved General Development Plan in the TCD District shall remain in effect so long as all building permits have been obtained during the applicable timeframe set forth above, and the Zoning Board, upon timely application, may for good cause shown grant extensions of related Final Site Plan, Special Exception and Coastal Site Plan approvals commensurate with the General Development Plan approval.

APPROVAL OF MINUTES:

Minutes for Approval: June 29, 2015

After a brief discussion, Mr. Morris made a motion to approve the minutes with the three corrections submitted from Mr. Michelson, seconded by Mr. Stein and the motion was approved 4:0 (Mills, Michelson, Morris and Stein).

OLD BUSINESS

1. **Appl. 213-44 - Rich Cappelli Associates LLC and Louis R. Cappelli Family Limited Partnership II** - Site and Architectural Plan & Requested Uses and Coastal Site Plan Review for the development of 650 residential units, ground floor retail, and associated parking and site improvements on properties of approximately 4.4 acres, zoned CC- N, and commonly referred to as 421 Atlantic Street (*proposed modifications to final plans*).

Norman Cole and David Killeen reported that they had met with Attorney Souchuns and Rick Redniss and their team to discuss the proposed modifications to the approved plans.

Attorney Souchuns provided an update on their request 1) she provided a written report and photos from an arborist concerning the magnolia tree located near the entrance to the post office. 2) their team met with Zoning Board Staff to review in detail the changes to parking and architecture. Mr. Killeen reported that Staff was comfortable with the design of the roof and the lower levels of the building and storefronts should be more pedestrian friendly. Mr. Cole had asked the Applicant to explain ways of using light at the top level of the building to add interest to the building.

Attorney Souchuns provided two renderings of the proposed building using the alternate color glass (blue and grey/silver). She stated that the Applicant would notify the Board within 30-days of making a determination of the trail color and submitting plans for building permit approval. She believes they have satisfied condition #1 of their original approval.

Much discussion ensued about Condition #3 of their approval having to do with the rehabilitation of the Post Office. It was agreed that Attorney Souchuns would submit a draft of revised Condition #3 to Mr. Stein for suggested edits. It was reported that Staff supported the proposed changes to the Parking Plans. While they could have considered approving a revised Condition #1, the Applicant asked that all of the modifications be considered simultaneously. The Board decided to keep this item on the agenda until Condition #3 was revised.

2. **Appl. 207-12 & 13 – BBSF, LLC (as amended)** – Coastal Site Plan, Special Exception and General Site and Architectural Plans and Requested Uses to construct a 325,000 square foot office tower, 240 feet in height, and 255 dwelling units in four separate buildings, as well as associated parking, landscaping and streetscape improvements (*request for time extension*).
3. **Appl. 212-05 - BBSF, LLC** requesting Final Plan Approval of Site Plans/Requested Uses and Coastal Site Plan Review for an approximately 325,000 square foot office building and associated improvements on a 5.32 +/- acre site zoned Transportation Center Design District (*request for time extension*).

Attorney Jason Klein was present to discuss both these requests. He explained that their request is related to the approval of Metro Tower and without these extensions, the approvals will expire in August 2016.

A motion was made by Mr. Michelson to approve the time extensions for both Applications 207-12/13 and 212-05, seconded by Mr. Morris and the motion carried 4:0 (Mills, Michelson, Morris and Stein).

4. **Appl. 213-24 - Estate of Samuel J. Heyman** requesting Site & Architectural Plans and/or Requested Uses approval, Coastal Site Plan Review, and Special Exception approval pursuant to Article III, Section 7.5-C (Large Scale Development) to construct two, one-story buildings; one for a 14,561 square foot, single story retail building to be used by CVS/pharmacy; and one for a 3,290 square foot retail building (tenant undetermined) and other associated site improvements for the CVS on Canal and Market Street. We should have the description and the action being sought – (*request for Modification of Approved Architectural Design – Building Material Substitute*)

Attorney Jacqueline Kaufman discussed this request. She explained that the Applicant had been in the process of completing construction of the subject building when they realized the approved material was “too orange” and distracted from the aesthetic of the building. Their design team made the decision to change the color from hazelnut to “shadow” (Charcoal Grey) without realizing that the change required Zoning Board approval. Bryce Hillman, Architect, explained the color choice and apologized for not coming to the Board sooner.

Mr. Mills asked if the material could be painted? Mr. Hillman wasn’t sure but said that he could research it.

Attorney Kaufman reported that the CVS temporary C.O. was set to expire on July 16, but she believed it could be extended to July 31.

Mr. Morris and Mr. Stein stated that they had no problem with the color change.

Mr. Mills stated he would like to drive by the site and look at the building. Mr. Michelson said he would go by the site as well.

It was decided by consensus that this could be resolved administratively at a Staff level if Zoning Board members emailed Staff to let them know if the revised product looked alright.

Mr. Stein made a motion to waive the rules to add a discussion regarding Application 214-39, 1009 Hope Street, requesting approval of final exterior plans per Condition #1, seconded by Mr. Michelson and the motion was approved 4:0 (Mills, Michelson, Morris and Stein).

5. **Application 214-39 – HOPE ENTERPRISES, LLC, Special Exception and Final Site & Architectural Plans**, construction of a one-story retail building on an existing developed property at 1009 – 1011 Hope Street with 2,844 sf of proposed retail space and 2,629 sf of storage, 28 parking spaces and associated landscaping in a Village Commercial zone.

Mr. Killeen showed the Board a revised rendering and material board to illustrate how the Applicant would provide more contrast along the top of the façade.

Mr. Michelson made a motion to approve the revised color palette dated June 22, 2015 for 1009 Hope Street, seconded by Mr. Morris and the motion was approved 4:0 (Mills, Michelson, Morris and Stein).

Mr. Stein made a motion to waive the rules to add a discussion regarding Application 212-23, 10 Rugby Street to discuss a possible stipulated judgement, seconded by Mr. Michelson and the motion was approved 4:0 (Mills, Michelson, Morris and Stein).

6. **Application 212-23 – TEN RUGBY STREET, LLC, Text change** to modify and amend the Zoning Regulations of the City of Stamford by adding a new definition to Section 3-A of 82.5 Recycling Reclamation Facility.

Mr. Cole distributed a letter from Richard Redniss dated June 25, 2015 in which he asked the Board to consider opening discussion of a possible stipulated judgement in connection with the court case on 10 Rugby Street, which was the subject of a recent text change application that had been denied by the Zoning Board.

After some discussion, Board members asked to review the correspondence and consider this item at a future meeting.

NEW BUSINESS

Status Report on Strand v. ZBA Boatyard Court Case and Boatyard Consultant Contract

Norman Cole distributed copies of two reports that have been provided by the City's consultants:

1. "Comparable Evaluation of Yacht Haven Boatyard and Multiple Marine Development Sites" City of Stamford, dated July 10, 2015 prepared by Bermello, Ajamil & Partners Architects, Inc. New York.
2. "Preliminary Peer Review, Stamford Connecticut, Marine Market Study and Needs Analysis", dated July 12, 2015, prepared by Pamela Lenzion, MarineTec Management & Consulting Company, LLC.

The Board asked that they be notified as soon as possible if any of the deadlines agreed to earlier were in jeopardy. Mr. Cole asked Board Members to forward any comments or concern to him concerning the reports.

ADJOURNMENT

There being no further business, Mr. Michelson made a motion to adjourn the meeting at 11:00pm, seconded by Mr. Morris and the motion carried 4:0 (Mills, Michelson, Morris and Stein).

Respectfully submitted,

Barry Michelson, Secretary
Stamford Zoning Board